

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
(PITTSBURGH DIVISION)**

WILLIAM E. EIKEY et ux.,	§	
	§	ELECTRONICALLY FILED
Plaintiffs,	§	
v.	§	
	§	CIVIL ACTION NO. 2:06-CV-121
FOUNDATION COAL CORPORATION,	§	
et al,	§	JUDGE LANCASTER
	§	
Defendants.	§	

**STIPULATION AS TO DISMISSAL OF LESS THAN ALL DEFENDANTS**

It is hereby stipulated by all counsel of record, to dismiss without prejudice the complaint in the above-entitled action as to defendants Foundation Coal Corporation, Foundation Coal Holdings, Inc., Foundation Coal Resources Corporation, Foundation PA Coal Co., ONLY, who were erroneously sued.

It is further stipulated that plaintiffs reserve all rights against defendants Emerald Coal Resources, L.P. f/k/a RAG Emerald Resources, L.P., and Pennsylvania Land Holdings Corporation, collectively t/d/b/a Emerald Mine, who were properly sued and who have filed a responsive pleading to plaintiff's complaint.

Respectfully submitted,

s/ Michael E. DeMatt

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SO ORDERED, this 21 day of April, 2006.

A handwritten signature in black ink, appearing to read "G L Lancaster", written over a horizontal line.

Hon. Garv L. Lancaster, U.S. District Judge